

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 20997**

Application 30573 of United States Fish and Wildlife Service Stone Lakes National Wildlife Refuge  
911 NE 11<sup>th</sup> Avenue, Portland, Oregon 97232-4181

filed on September 12, 1996, has been approved by the State Water Resources Control Board SUBJECT TO  
PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source	Tributary to
Unnamed Stream	Stone Lake thence
	Snodgrass Slough thence
	Sacramento/San Joaquin River Delta Channels

2. Location of point of diversion

By California Coordinate System in Zone 2#	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Diversion to offstream storage: North 275,430 feet and East 2,146,020 feet	NE¼ of NW¼	36*	7N	4E	MD

\*Projected

County of Sacramento

PERM-FIN (3-99)

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Fish and Wildlife Preservation and Enhancement	At offstream Pond No. 4 within S½	25	7N	4E	MD	
Fish and Wildlife Preservation and Enhancement	At offstream Ponds No. 1, 2, 5, and 6 within N½	36*	7N	4E	MD	
Fish and Wildlife Preservation and Enhancement	At offstream Pond No. 3 within S½ and N½	25 & 36*	7N	4E	MD	
		*Projected				

The place of use is shown on map on file with the State Water Resources Control Board.

This permit is subject to the following terms and conditions:

5. The water appropriated shall be limited to the quantity which can be beneficially used for fish and wildlife preservation/enhancement and shall not exceed:

(a) by direct diversion: 4.18 cubic feet per second between January 1 and June 14 and between September 1 and December 31 of each year. Total direct diversion shall not exceed 520 acre-feet per annum.

(b) by storage: 210 acre-feet to be collected between January 1 and June 14 and between September 1 and December 31 of each year.

Total diversion under this permit collection to storage and direct diversion shall not exceed 730 acre-feet per annum.

6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000005)

7. The maximum rate of diversion to offstream storage shall not exceed 9.36 cubic feet per second cubic feet per second.

(0000005)

8. Complete application of the water to the authorized use shall be made by December 31, 2009. (0000009)

9. During the season specified in this permit, the total quantity and rate of water diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of diversion and use specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of diversion and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the State Water Resources Control Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law. (0000021)

10. After the initial filling of the storage reservoirs, permittee's right under this permit extends only to water necessary to keep the reservoirs full by replacing water lost by evaporation and seepage and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season. (0000040)

11. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning availability of water and the protection of beneficial uses of water in the Sacramento-San Joaquin Delta and San Francisco Bay. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing. (0000080)

12. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento/San Joaquin River Delta are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing. (0000090)

13. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

a. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the State Water Resources Control Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.

- b. Supplemental Project water is defined as that water imported to the basin by the projects plus water released from Project storage which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The State Water Resources Control Board shall notify permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

(0000091)

14. Permittee shall maintain the existing outlet pipes through the dams in proper working order.

15. Impacts to any known cultural resources shall be avoided during project activities related to water development and use. If impacts to cultural resources, which include any prehistoric or historic archeological sites, and/or properties of importance to Native Americans, cannot be avoided; then the Permittee shall implement appropriate mitigation measures to be determined by a qualified archeologist and the Office of Historic Preservation. Any mitigation measures deemed necessary must have the approval of the Chief, Division of Water Rights and shall be implemented by a qualified archeologist representing the Permittee prior to the resumption of construction activities. The Permittee shall comply with the "Procedures for the Protection of Historic and Cultural Properties" (36 CFR 60), the implementing regulations of the Advisory Council on Historic Preservation (36 DFR 800), and with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA). Copies of all subsequent cultural resource reports shall be provided to the Division of Water Rights.

If any cultural resources are discovered during any phase of project activities subsequent to the issuance of this permit, all work in the immediate vicinity of the find shall halt until a qualified archeologist has contacted a State Water Resources Control Board, Division of Water Rights, archeologist and the significance of the resource has been evaluated. Any mitigation measures deemed necessary must have the approval of the Chief of the Division of Water Rights, and shall be implemented by a qualified archeologist representing the Permittee prior to the resumption of construction activities.

**16. All permits issued by the State Water Resources Control Board are subject to the following terms and conditions:**

- (A) Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.
- (B) The amount authorized for appropriation may be reduced in the license if investigation warrants.
- (C) Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.
- (D) Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.
- (E) Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

***This permit is issued and permittee takes it subject to the following provisions of the Water Code:***

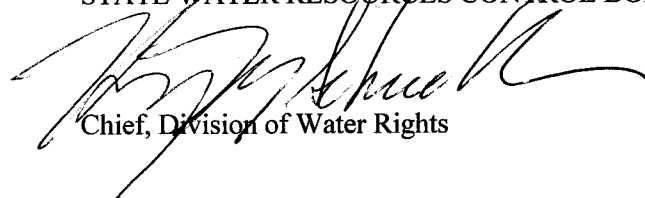
*Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.*

*Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.*

*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

Dated: **JUN 9 1999**

STATE WATER RESOURCES CONTROL BOARD

  
Chief, Division of Water Rights